



COMMITTEE FOR ACCURACY IN MIDDLE EAST REPORTING I

# BACKGROUNDER: A PALESTINIAN UNILATERAL DECLARATION OF INDEPENDENCE (UDI)

BY: ALEX SAFIAN, PHD / MAY 5, 2011



Palestinian leaders including Chief Negotiator Sa'eb Erakat, Prime Minister Salam Fayyad and Foreign Minister Riad Malki have declared the Palestinians' intention to achieve statehood through a Unilateral Declaration of Independence (UDI) via the United Nations, rather than through negotiations with Israel:

- The choice of Palestine applying to the Security Council for a full membership is a realistic one that we must work on applying as soon as possible... We are convinced that negotiation with (Israeli Prime Minister Benjamin) Netanyahu's government is impossible because it refuses to stop settlement activities. So the Palestinian leadership decided to start implementing alternatives to negotiations and the first of these is demanding recognition. ([Saeb Erakat, AFP, March 20, 2011](#))

- The Palestinian government is struggling determinedly against a hostile occupation regime... in order to establish a de facto state apparatus within the next two years. (Salam Fayyad, AFP, Aug. 25, 2009)

- Until this moment [a negotiated peace deal] is our choice, and it will continue to be our choice until September 2011... [but the] current peace process as it has been conducted so far is over. (Riad Malki, Jerusalem Post, Mar. 23, 2011)

(Malki claims that this would be a unilateral declaration by the “international community” rather than by the Palestinians.)

However phrased, such a move by the Palestinian side would fundamentally violate agreements with Israel that were mediated and witnessed by the United States, would be unlikely to be effective, might provoke unilateral moves by Israel, might also provoke violent clashes, and would certainly hinder rather than advance the search for peace.

### **How would a Palestinian Unilateral Declaration or appeal to the United Nations violate existing agreements?**

All major agreements between Israel and the Palestinians have required that disputes between the parties be settled through direct negotiations and not via third parties. For example, the Declaration of Principles (Sept. 13, 1993), which formalized the direct Israeli-Palestinian peace process, required in Article XV that:

Disputes arising out of the application or interpretation of this Declaration of Principles, or any subsequent agreements pertaining to the interim period, shall be resolved by negotiations through the Joint Liaison Committee to be established pursuant to Article X above.

Disputes which cannot be settled by negotiations may be resolved by a mechanism of conciliation to be agreed upon by the parties.

The parties may agree to submit to arbitration disputes relating to the interim period, which cannot be settled through conciliation. To this end, upon the agreement of both parties, the parties will establish an Arbitration Committee.

The Declaration was signed on the White House lawn and witnessed by the United States and the Russian Federation.

The language requiring negotiations rather than unilateral actions was repeated and referenced in subsequent agreements, including the so-called Interim Agreement (Sept. 28, 1995), which was witnessed by the United States, the Russian Federation, Egypt, Jordan, Norway and the European Union. (See Article XXI on Settlement of Differences and Disputes.)

The Sharm el-Sheikh Memorandum (Sept. 4, 1999), went even further in barring unilateral moves:

Recognizing the necessity to create a positive environment for the negotiations, **neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip in accordance with the Interim Agreement.**

The Memorandum was witnessed by Egypt, Jordan and the United States.

Following negotiations in the summer of 2000, United States President William Clinton, Israeli Prime Minister Ehud Barak and Palestinian leader Yasir Arafat agreed in a Trilateral Statement (July 25, 2000) that:

3) Both sides agree that negotiations based on UN Security Council Resolutions 242 and 338 are the only way to achieve such an agreement and they undertake to create an environment for negotiations free from pressure, intimidation and threats of violence.

4) The two sides understand the importance of avoiding unilateral actions that prejudice the outcome of negotiations and that **their differences will be resolved only by good faith negotiations.**

As with the prior documents, the Trilateral Statement explicitly bars any resort to outside parties or unilateral actions to settle disputes.

Similarly, the Roadmap (Apr. 30, 2003) called for the parties to:

... reach final and comprehensive permanent status agreement that ends the Israel-Palestinian conflict in 2005, through a **settlement negotiated between the parties** based on UNSCR 242, 338, and 1397 ...

And the Middle East Quartet (United Nations, European Union, Russian Federation, and the United States), in a statement issued on June 26, 2009, affirmed that:

... unilateral actions taken by either party cannot prejudice the outcome of negotiations and will not be recognized by the international community.

Thus, any Palestinian appeal for statehood to the United Nations, or a Palestinian unilateral declaration of statehood, would be a fundamental and grave violation of its signed agreements with Israel, and would call into question the worth of any future Palestinian commitments.

Similarly, support for or acquiescence to such a Palestinian move by the United States, the United Nations, the Russian Federation, the European Union or its member states, or Norway, would be a clear violation of agreements that these countries and the UN have witnessed and in many cases endorsed, and would also call into question the value of their commitments.

**How would a Palestinian Unilateral Declaration or appeal to the United Nations violate US assurances to Israel?**

Following completion of the Redeployment from Hebron agreement in 1997, US Secretary of State Warren Christopher sent a letter to Prime Minister Netanyahu outlining the US position on peace between Israel and

the Arabs, concluding with this key line:

Finally, I would like to reiterate our position that Israel is entitled to secure and defensible borders, which **should be directly negotiated and agreed with its neighbors.**

Obviously a unilateral move by the Palestinians would contradict this US assurance to Israel.

Similarly, after Israel's complete withdrawal from Gaza, President Bush on April 14, 2004 sent the so-called Bush Letter to Prime Minister Sharon, affirming that:

The United States appreciates the risks such an undertaking represents. I therefore want to reassure you on several points.

First, the United States remains committed to my vision and to its implementation as described in the roadmap. The United States will do its utmost to prevent any attempt by anyone to impose any other plan.

(The Bush letter was endorsed by the House and the Senate in a non-binding concurrent resolution H. Con. Res. 460.)

A unilateral Palestinian declaration of statehood, via the United Nations or otherwise, would violate the terms of the Roadmap, and President Bush's letter commits the United States to "do its utmost to prevent" such a move from occurring, or if it occurs, from succeeding.

While these letters were not official agreements or treaties, and were not ratified by the Senate, were the United States now to disavow or ignore such commitments the value of all such Presidential assurances would be called into question, thereby doing great damage to the power and credibility of future Presidents in their conduct of foreign policy.

### **What is the Obama Administration's position on a unilateral Palestinian declaration?**

The Obama administration has opposed any unilateral actions by either party and has called for restarting direct negotiations as the only way to move forward.

Thus, in a speech at the Brookings Institution, Secretary of State Hillary Clinton said:

For two years, you have heard me and others emphasize again and again that **negotiations between the parties is the only path that will succeed in securing their respective aspirations**; for the Israelis, security and recognition; for the Palestinians, an independent, viable sovereign state of their own. This remains true today. **There is no alternative other than reaching mutual agreement...**

**The United States and the international community cannot impose a solution.** Sometimes I think both parties seem to think we can. We cannot. And even if we could, we would not, because **it is only a negotiated agreement between the**

**parties that will be sustainable.** The parties themselves have to want it. The people of the region must decide to move beyond a past that cannot change and embrace a future they can shape together...

[Both sides] should **avoid actions that prejudge the outcome of negotiations or undermine good faith efforts to resolve final status issues. Unilateral efforts at the United Nations are not helpful and undermine trust. Provocative announcements on East Jerusalem are counterproductive.** And the United States will not shy away from saying so. (December 10, 2010)

And on February 18, 2011, after vetoing what the US judged to be an unbalanced Security Council resolution, United Nations Ambassador Susan Rice stated:

No outside country has invested more effort and energy and resources in pursuit of that peace than the United States has, and we will continue to do so. **But the only way that that goal can be reached, the common goal of a two-state solution, is, as a practical matter, through direct negotiations between the parties.** There's no short cut to that end. And every potential action, including action in the Security Council, has to be measured against one test, and that's whether it will move the parties closer to negotiations and agreement or take them further apart.

At the same briefing Deputy National Security Advisor Ben Rhodes stated:

**We have made it clear today, again, that we believe that direct negotiations between the parties is the venue to resolve this conflict, not a UN Security Council resolution.**

And in a speech to the U.S.-Islamic World Forum, Mrs. Clinton said:

This includes renewed pursuit of comprehensive Arab-Israeli peace. The status quo between Palestinians and Israelis is no more sustainable than the political systems that have crumbled in recent months. Neither Israel's future as a Jewish democratic state nor the legitimate aspirations of Palestinians can be secured without a **negotiated two-state solution.** And while it is a truism that **only the parties themselves can make the hard choices necessary for peace,** there is no substitute for continued active American leadership. (April 12, 2011)

The United States thus seems to be clearly opposed to a unilateral Palestinian declaration of statehood, or an attempt to gain recognition of statehood through the United Nations rather than through direct negotiations between the parties.

**Could the Palestinians gain statehood via the United Nations when the UN meets again in September?**

No – the UN doesn't grant statehood, it grants membership to states, and a political entity doesn't have to be a member of the UN to be a state (see below for more details). Communist China, for example, was a state before it was admitted to the UN in the place of Taiwan.

Moreover, under the United Nations Charter (Article 4 ) membership must be approved by the Security Council first, and only then by the General Assembly:

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly **upon the recommendation of the Security Council**

As indicated above, the United States seems likely to veto such a move in the Council because it would be a violation of clearly stated US policies as well as unequivocal assurances to Israel, and also would violate previous agreements between Israel and the Palestinians which call for all issues to be settled through direct negotiations, and which bar unilateral actions changing the status of the territories. The US has a stake in these agreements since it helped to mediate them and also acted as a witness and signatory.

### **Could the Palestinians use a “Uniting for Peace” resolution to bypass the Security Council and achieve statehood via the General Assembly?**

No again, since as above the UN doesn't grant statehood, it grants membership. Absent Security Council approval for Palestinian membership in the UN, there has been talk of the General Assembly passing a “Uniting for Peace” resolution to bypass the Council, but under the Charter this would have no more impact than an ordinary GA vote endorsing Palestinian membership or statehood.

United Nations GA Resolution 377 was passed in 1950 through the efforts of the United States as a way to bypass Soviet intransigence over the Korea crisis. According to the Resolution:

... if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility ... in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with **a view to making appropriate recommendations** to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary ...

Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations.

Despite the intent to bypass the Security Council, and the inclusion of “armed force” as one of the options open to members, the key phrase in the resolution, highlighted above, is that the General Assembly can still only make “appropriate recommendations,” with which member countries are under no obligation to comply.

Indeed, no General Assembly resolution, including Resolution 377, can change the United Nations Charter, under which the organization must operate. And Article 10 of the Charter states clearly that the Assembly can make only recommendations:

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, **may make recommendations** to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11 paragraph 2 goes even further, restricting the General Assembly to making passive recommendations only, and explicitly requiring that any actions be taken by the Security Council:

The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, **may make recommendations** with regard to any such questions to the state or states concerned or to the Security Council or to both. **Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.**

And Article 12 paragraph 1 restricts the power of the General Assembly even more, requiring that the General Assembly not even discuss matters while they are before the Security Council, unless the latter requests it:

While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the **General Assembly shall not make any recommendation with regard to that dispute or situation** unless the Security Council so requests.

It must be noted, however, that in order to achieve its political goals the United Nations is not above violating – or creatively reinterpreting – its own charter. For example, honoring the Article 12 prohibition would have prevented the General Assembly from calling on the International Court of Justice to render an opinion regarding Israel's construction of a security barrier intended to prevent terrorists from launching attacks in Israel.

The ICJ took the assignment anyhow, defending its jurisdiction by arguing that there had been a hitherto uncoded evolution in the understanding of the Article 12 prohibition:

27. ... Indeed, the Court notes that there has been an increasing tendency over time for the General Assembly and the Security Council to deal in parallel with the same matter concerning the maintenance of international peace and security (see, for example, the matters involving Cyprus, South Africa, Angola, Southern Rhodesia and

more recently Bosnia and Herzegovina and Somalia). It is often the case that, while the Security Council has tended to focus on the aspects of such matters related to international peace and security, the General Assembly has taken a broader view, considering also their humanitarian, social and economic aspects.

28. The Court considers that the accepted practice of the General Assembly, as it has evolved, is consistent with Article 12, paragraph 1, of the Charter. The Court is accordingly of the view that the General Assembly, in adopting resolution ES-10114, seeking an advisory opinion from the Court, did not contravene the provisions of Article 12, paragraph 1 of the Charter. (Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I. C. J. Reports 2004, p 149-150)

While the General Assembly has thus eroded some of the limitations on its power in the Charter, there is still no room, either in the Charter or in practice, for the General Assembly to do more than issue non-binding recommendations, except in the case of membership in the UN, where the General Assembly can act to admit a state, but only after the Security Council has approved.

There is no legal way – under Uniting for Peace or any other stratagem – for the General Assembly on its own to admit a state to the United Nations, and it seems unlikely that the permanent members of the Security Council would really like to see this changed. Russia and China, for example, both have restive republics and areas that might one day seek sovereignty, and both must be mindful that enlarging the powers of the General Assembly in this regard might well come back to haunt them.

### **More on Uniting for Peace and Emergency Special Sessions on Palestine**

There have already been Uniting for Peace resolutions resulting in Emergency Special Sessions regarding the Israeli-Arab conflict, most recently in 1997 regarding Israel's plans to build housing in Har Homa. That special session, in fact, has yet to end, having been repeatedly adjourned and resumed, most recently in 2006. Over time it has strayed far from its original pretense, having morphed into an all-purpose bash-Israel session parallel to the General Assembly, but with similar limited impact.

### **Palestinian declarations of statehood, then and now**

Should the Palestinians declare statehood this year it would be at least the third time they have done so. The first was in 1948, when the Higher Arab Committee (claiming to represent the Palestinian people) passed the following:

Proclamation of the Independence of Palestine by the Higher Arab Committee and the Representatives of Palestine Meeting in Congress (Oct. 1, 1948):

Acting on the basis of the natural and historic right of the Arab people of Palestine to freedom and independence – a right for which they have shed the noblest blood and for which they have fought against the imperialistic forces, which, together with



Zionism, have combined to meet (these people) and prevent them from enjoying that (right),

We, members of the Palestinian National Council, meeting in the city of Gaza, proclaim on this day, the 28th day of Dhi al-Qi'da, 1367 (A.H.), corresponding to October 1st, 1948, the full independence of the whole of Palestine as bounded by Syria and Lebanon from the north, by Syria and Transjordan from the east, by the Mediterranean from the west, and by Egypt from the south, as well as the establishment of a free and democratic sovereign State. In this (State), citizens will enjoy their liberties and their rights, and (this State) will march forward, in a fraternal spirit, side by side with its sister Arab States, in order to build up Arab glory and to serve human civilization. (In doing this, they) will be inspired by the spirit of the nation and its glorious history, and will resolve to maintain and defend its independence. May God bear witness to what we say. (*The Arab States and the Arab League: A Documentary Record*, Vol. 2: International Affairs, Palestine, p. 579, Doc 261; Muhammad Khalil, ed; 1962, Khayats Press, Beirut)

Similarly, on November 15, 1988, at a meeting of the Palestinian National Council in Algiers, the Palestine Liberation Organization declared an independent Palestinian state, proclaiming in part that:

Whereas the Palestinian people reaffirms most definitively its inalienable rights in the land of its patrimony:

Now by virtue of natural, historical and legal rights, and the sacrifices of successive generations who gave of themselves in defense of the freedom and independence of their homeland;

In pursuance of Resolutions adopted by Arab Summit Conferences and relying on the authority bestowed by international legitimacy as embodied in the Resolutions of the United Nations Organization since 1947;

And in exercise by the Palestinian Arab people of its rights to self-determination, political independence and sovereignty over its territory,

The Palestine National Council, in the name of God, and in the name of the Palestinian Arab people, hereby proclaims the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif).

The State of Palestine is the state of Palestinians wherever they may be...

The State of Palestine is an Arab state, an integral and indivisible part of the Arab nation, at one with that nation in heritage and civilization, with it also in its aspiration

for liberation, progress, democracy and unity.

In response, the United Nations General Assembly invited PLO leader Yasir Arafat to address the body, which then passed [A/RES/43/177 \(15 December 1988\)](#), declaring in part that:

The General Assembly,

Having considered the item entitled “Question of Palestine”,

Recalling its resolution 181 (II) of 29 November 1947, in which, inter alia, it called for the establishment of an Arab State and a Jewish State in Palestine ...

1. Acknowledges the proclamation of the State of Palestine by the Palestine National Council on 15 November 1988;

The resolution passed by a vote of 104 to 2, with 36 abstentions.

Were the General Assembly to vote to support or acknowledge yet another Palestinian declaration of statehood, there is little doubt that there would be a similarly lopsided majority in favor.

### **Would a Palestinian declaration of statehood be valid under international law?**

As noted above, the United Nations does not grant statehood – in fact, no organization or body does. And while the Palestinians can always declare statehood yet again, that doesn’t make them a state.

Under international law there are specific requirements for a political entity to be considered a state, which were codified under the [Montevideo Convention](#) (Convention on Rights and Duties of States, 1933 )

The following articles of this convention are the most relevant:

#### **ARTICLE 1**

The state as a person of international law should possess the following qualifications:

a ) a permanent population; b ) a defined territory; c ) government; and d) capacity to enter into relations with the other states.

#### **ARTICLE 2**

The federal state shall constitute a sole person in the eyes of international law.

#### **ARTICLE 3**

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

More recently, in deciding issues relating to the breakup of Yugoslavia, The Arbitration Commission of the Conference on Yugoslavia (colloquially known as the Badinter Arbitration Committee, 1991) adopted similar requirements.

Under these criteria the territory under the control of the Palestinians does not constitute a state. This is first because under the Oslo Accords and subsequent agreements the PA has limited and even temporary authority, and limited autonomy. In no sense does the PA have complete governmental control over a permanent population, nor does it have control over a defined territory – both because its control is limited, and because the extent of its sovereign territory has to be determined via negotiations with Israel. Nor, under the agreements or in practice, does the PA have the capacity to enter into genuine relations with other states.

Furthermore, the Palestinian declaration of statehood in 1988, which the Palestinians say is still operative, listed as Palestinian citizens “Palestinians wherever they may be...”

Contrary to the legal requirements for statehood, this is an indefinite population over whom, in many cases, the Palestinian Authority (and even the PLO) has no defacto authority whatsoever. The 1988 declaration is also unclear (or perhaps too clear) regarding the extent of Palestinian territorial claims, proclaiming:

the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif).

What exactly is “our Palestinian territory” and exactly what portion of Jerusalem are they claiming? In any event, no Palestinian entity has control over this entire territory or Jerusalem, thus again failing to meet the requirements of statehood.

The bottom line is that only through good faith negotiations with Israel can the Palestinians address these issues and achieve statehood.

### **What are the “Terms of Reference” proposed by some members of the Quartet?**

In the face of the stalled peace process – caused by Palestinian refusal to negotiate with Israel – the UK, France and Germany have been proposing “international terms of reference” as an inducement to Abbas to reengage. These terms assume the 1967 lines as a starting point, in violation of Resolution 242, and support Jerusalem as the capital of both states. These countries have also been pressing the other members of the Quartet to sign on to their effort.

British Foreign Secretary William Hague, in a speech on March 30, 2011 marking “Sixty years of British-Israeli diplomatic relations,” described the initiative in these terms:

In short, the Peace Process must not become a casualty of uncertainty in the region. We are calling for Israelis and Palestinians to recommit themselves urgently to negotiations on the basis of clear principles supported by the international community.

The UK, France and Germany have set out our views on what those principles should be two states for two peoples based on: 1967 borders with equivalent land swaps,

security arrangements that protect Israel whilst respecting Palestinian sovereignty by ending the Occupation; a fair realistic and agreed solution for refugees and Jerusalem as the capital of both states.

We are calling on the United States and the Quartet to set out clear principles on this basis as soon as possible and on both sides to resume negotiations to address final status issues. There has been talk about whether interim solutions will suffice. But I don't believe they will be sufficient. Final status issues have to be resolved.

We want to see progress by September.

There are a number of problems with Hague's approach. First, these Quartet "referees," who are supposed to be overseeing the peace process between Israel and the Palestinians, now apparently want to be part of the game.

But should their effort to achieve peace fail, their "terms of reference" will become the baseline for the next effort to achieve peace, and therefore the baseline for further demands on Israel. It was precisely to avoid this pitfall that President Clinton very wisely never officially presented his map at Camp David – he said his proposal should be the beginning of peace, not the beginning of the next peace process.

And since the aim is to bring Abbas back to the negotiations, he is not simply going to accept their proposal – he will negotiate with the Europeans instead of negotiating with Israel. And the pressure will be on the Europeans to sweeten their offer at Israel's further expense, or suffer failure.

Besides the problems in principle with the "terms of reference," there are also specific problems. For example, the terms address only Palestinian concerns, require actions only on the part of Israel and do not require anything from the Palestinians – no Palestinian acceptance of Israel as a Jewish state, no direct Palestinian statement to their own people that the conflict is over and there will be no further demands on Israel, no requirement that the Palestinians halt anti-Israel incitement, no requirement that all militias, such as Hamas and Islamic Jihad, be disarmed.

It is notable, in this regard, that when the British were negotiating to end the sectarian violence in Northern Ireland, they insisted that as part of the negotiations and prior to their completion, the IRA (Irish Republican Army) and associated "paramilitary groups" would have to "decommission" – that is completely and verifiably disarm. This finally occurred in 2005, leading to the [following statement](#) from the then British Prime Minister Tony Blair:

This is an important development in the peace process and one we have all been waiting for, for a long time.

Successive British governments have sought final and complete decommissioning by the IRA for over 10 years. Failure to deliver it had become a major impediment to moving forward the peace process.

Today it is finally accomplished. And we have made an important step in the transition from conflict to peace in Northern Ireland.

While the British insisted that the IRA decommission its weapons as a condition for continuing the peace process, they have no such demands regarding much more deadly weapons in the hands of Palestinian terrorist groups. This despite the fact that while the IRA never questioned the right of Britain to exist, that is exactly the position of Hamas, Islamic Jihad, etc. regarding Israel.

In addition, the proposed “security arrangements that protect Israel whilst respecting Palestinian sovereignty” can only be a source of deep concern to Israel, in the wake, for example, of the failed “security arrangements” and other provisions of UNSC Resolution 1701. That resolution, passed in 2006 in the wake of the fighting in Lebanon provoked by Hezbollah attacks in Israel, was supposed to lead to the disarming of Hezbollah and the deployment of the Lebanese Army – with the assistance of the UN forces in UNIFIL – throughout the country, in particular near the border with Israel, displacing Hezbollah’s forces in the process.

Despite the solemn promises of the “international community” nothing of the sort has happened, and according to credible reports Hezbollah’s armed forces are more powerful and more well-armed than ever before. UNIFIL troops that are supposed to restrain and disarm Hezbollah are ineffectual.

The “security arrangements” that the Europeans are promising to Israel therefore must be a source of anxiety rather than reassurance.

### **While they propose “terms of reference,” what are the positions of these leaders with regard to a Palestinian UDI?**

German Chancellor Angela Merkel in a May 5th article, stated her continuing strong opposition to any unilateral Palestinian moves:

German Chancellor Angela Merkel warned against unilateral recognition of a Palestinian state during talks with Palestinian President Mahmoud Abbas in Berlin on Thursday.

“We do not think that unilateral steps are helpful,” the chancellor said, while encouraging an “urgent” return to peace negotiations between Israel and the Palestinians.

In the same article, however, French President Nicolas Sarkozy is quoted as saying that France could well support a Palestinian UDI:

French President Nicolas Sarkozy earlier told French daily l'Express, “If the peace process is still virtually dead in September, France will take its responsibility on the issue of recognizing the Palestinian state.”

And the British are wobbling. According to a May 4, 2011 report in the *Guardian* the UK may now support a Palestinian unilateral declaration unless Israel resumes negotiations on Palestinian terms:

Britain is making clear that it may endorse a declaration by Abbas if Israel declines to take part in substantive peace negotiations with the Palestinians to create a two state solution. (David Cameron to Israel: join talks or I may support independence declaration)

This is a change in the British position from a few months ago, as stated by the British Ambassador to Israel, Matthew Gould, who said his country supports Palestinian statehood but opposes and would not recognize any unilateral Palestinian declaration:

... the way to achieve this is through negotiations. This is a conflict that can only be solved through a negotiated settlement.

Still, just as with the previous declaration and UN vote, a Palestinian unilateral declaration now accompanied by a UN General Assembly vote in favor is unlikely to end the conflict.

On the contrary, a more likely scenario is that with Hamas control in Gaza and partial Palestinian control in the West Bank, a UDI would provoke more rather than less violence and conflict, and might even ignite large scale fighting.

### **Would Palestinian unilateralism be justified? Who has refused to negotiate – Israel or the Palestinians?**

Contrary to the charge that Israel has refused to seriously and forthrightly negotiate with the Palestinians, it is the Palestinian leader Mahmoud Abbas who has refused to seriously negotiate with Israel since his failure to accept Ehud Olmert's far-reaching proposals in September 2008.

Olmert's plan would have annexed the major Israeli settlements to Israel and in return given Israeli territory to the Palestinians, and would have divided Jerusalem.

Numerous settlements including Ofra, Elon Moreh, Beit El and Kiryat Arba would have been evacuated, and Hebron would have been abandoned. Tens of thousands of settlers would have been uprooted. Olmert even says preliminary agreement had been reached with Abbas on refugees and the Palestinian claim to a "right of return."

In the end Abbas refused to say yes. (Olmert: Abbas never responded to my peace offer, Ha'aretz, Feb. 14, 2010)

Ha'aretz has even published a map delineating the Israeli proposal that Abbas rejected:



More recently, Abbas dismissed Prime Minister Netanyahu's 10-month settlement freeze as meaningless, until the ninth month, when he portrayed a continued settlement freeze as crucial and demanded it as a precondition for resuming negotiations.

**If the Palestinian leadership is not really considering serious peace proposals, then what are they planning?**

The Palestinian strategy is actually quite clear. Negotiating and agreeing to a peace accord entails at least some Palestinian concessions on paper, such as saying that they accept Israel's right to exist, or, better, saying that they accept Israel's right to exist as a Jewish state. Or – at a minimum – saying that with a peace agreement the conflict is over, and there will be no further Palestinian demands on Israel.

Arafat would not do this – witness Camp David and Taba – and apparently Abbas will not do this either.

**It appears, in plain terms, that the Palestinians simply will not take yes for an answer.**

Instead their plan was to delegitimize and demonize Israel, and make it an international pariah for the very fact of being a Jewish state. When this process of demonization reached a critical mass, they would try to get the UN and the Europeans to impose unilateral conditions on Israel, with either US acquiescence or participation.

After such unilateral conditions are passed or agreed upon, the price of Israeli refusal would be international BDS – Boycott, Divestment and Sanctions, as in the Apartheid South African model.

Apparently the Palestinian leadership feels that that critical mass has now been achieved and the time is right to get a state, recognized by – at a minimum – the Europeans and the United Nations, without making any compromises, and without ending the conflict.

And then, as the state of Palestine, they can continue to press for Israeli concessions, including on the so-called right-of-return, and they can continue to demonize Israel as supposedly oppressing the new state regarding refugees, or water, or any number of other pretexts for keeping the conflict alive.

When, in response to continuing terror attacks launched from the state of Palestine, Israeli forces cross the “border” to deal with the perpetrators and to prevent future attacks, that will be portrayed as an invasion of a sovereign country and an act of war.

And Israel will likely be blamed for provoking the Palestinian attacks by not agreeing to the Palestinian demands for more Israeli territory, more Israeli water, etc.

(revised 05/10/2011)

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PALESTINIAN UNILATERAL  
DECLARATION OF INDEPENDENCE

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